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Respondent at the Alamo Pet Clinic ("Clinic") in Arlington, Texas for check-ups, vaccinations, and sterilization. Ms. Smetek stated that her intention was to get these kittens ready to be adopted.

4. Respondent performed the requested services and returned the five kittens to Ms. Smetek's friend between 4:20 p.m and 4:30 p.m. Ms. Smetek took each of the kittens to Brenda Paduch, D.V.M. ("Dr. Paduch") at the Parkway Animal Hospital in Grand Prairie, Texas later that evening.

5. At approximately 6:00 p.m. that evening, Ms. Smetek brought Gizmo to Dr. Paduch after he dropped his head down and his eyes rolled back into his head as he laid on the ground. Gizmo had a temperature of 103.4 degrees Fahrenheit when he was presented to Dr. Paduch. Dr. Paduch palpated a testicle on the right side near the scrotum, but was unable to palpate a testicle on the left side. Dr. Paduch's medical notes state that Gizmo was not neutered on either side even though Gizmo had an apparent abdominal incision.

6. Respondent's medical notes state that he made a midline incision before discovering that the patient was a male. Additionally, Respondent's notes state that no testicles were removed because he was too young or potentially cryptorchid.

7. After Dr. Paduch had seen Gizmo and determined that there were some problems, Ms. Smetek went back home and got the rest of the kittens.

8. Inky was dead upon presentation to Dr. Paduch. Ms. Smetek states that her friend discovered that Inky was dead when her friend attempted to get him to come out of his pet carrier after arriving home from the Clinic.

9. Respondent's medical notes do not note anything abnormal about Inky's neuter and Respondent states that he was shocked to hear that Inky had died after the surgery in his response to the Board.

10. Hissie appeared similarly to Gizmo, but had a temperature of 103.5 degrees Fahrenheit and was less lethargic than Gizmo.

11. Respondent's medical notes do not note anything abnormal about Hissie's spay procedure.

12. Dr. Paduch did not note any post-surgical abnormalities with Bear or Scottie aside from moderately elevated temperatures and heart rates.

13. Respondent's medical notes do not note anything abnormal about Bear's neuter. Respondent's medical notes for Scottie's neuter state that only one testicle was removed during Scottie's neuter and that the other testicle was potentially a cryptorchid testicle. Respondent

recommended that Ms. Smetek bring Scottie back to the Clinic in one month to have the other testicle removed. Respondent stated in his response to the Board that when he opened up Scottie's scrotum and only found one testicle, he then declined to perform the abdominal surgery to retrieve the cryptorchid testicle due to Scottie's age.

14. All four of the live kittens were released to Ms. Smetek on November 8, 2013 with instructions for Gizmo and Hissie to have no food or water and to keep confined in a dark quiet area overnight.

15. The veterinary medical records provided to the Board by Respondent do not include the concentrations or routes of administration for the Ketamine and the route of administration for the Acepromazine that was administered to each of these kittens. The records do not include the concentration of the Penicillin G either. The records do not contain details necessary to substantiate the surgery performed on three of the five kittens as the records for Bear, Scottie, and Inky either say "neuter", "neuter – normal feline castration", or "OHE".

16. Additionally, in Respondent's response to the Hissie case and to the Inky case, Respondent alleges that he informed Ms. Smetek that due to age, size, and risk factors it would be better to wait another month before performing these procedures. This conversation is not recorded in Respondent's medical records for the case.

17. On November 27, 2013, Shanna Kight of Arlington, Texas ("Ms. Kight") called the Alamo Pet Clinic ("Clinic") in Arlington, Texas around 11:15 a.m. and told the Clinic staff that her cat named "M&M" needed medical attention for injuries that seemed to Ms. Kight to be caused by either a dog attack or a car accident. Clinic staff assured Ms. Kight on that phone call that "M&M" would be fit into the schedule for that day even though she did not have an appointment.

18. Ms. Kight dropped "M&M" off at the Clinic at around 11:30 a.m. and was told that Respondent was at lunch and that Ms. Kight would be called whenever Respondent came back and examined "M&M".

19. Ms. Kight called the Clinic at 1:50 p.m. expecting to hear how Respondent's examination of "M&M" went and was told that Respondent was not back from lunch and that nothing had been done for "M&M". Ms. Kight expressed her frustration at the over two hour wait that "M&M" had already experienced to be examined or treated. Clinic staff assured Ms. Kight that Respondent would be back in the Clinic shortly and would examine and treat "M&M".

20. Ms. Kight again called the Clinic at 3:00 p.m. expecting to hear how the examination of "M&M" went and what treatment Respondent had prescribed for "M&M" and was again told that Respondent was not back from lunch and nothing had been done for "M&M." Ms. Kight then informed Clinic staff that this was unacceptable and to not do anything for "M&M" and that "M&M" would be taken to a veterinarian who actually had the time to treat her.

21. When Ms. Kight arrived at the Clinic shortly after that call, she was informed by Respondent that he had examined "M&M" before he went to lunch, but did not provide any treatment to "M&M".

22. The veterinary medical records provided to the Board by Respondent state that the wounds on "M&M" were examined and that "M&M" was comatose. Ms. Kight then took "M&M" to the Park Plaza Animal Clinic and D'Anne Stephens, D.V.M. ("Dr. Stephens"). Dr. Stephens examined "M&M" and noted that "M&M" was very uncomfortable, cried out in pain, vocalized loudly, had a subnormal temperature, had deep pain present, and was unable to stand.

23. Dr. Stephens put "M&M" into an incubator with water to increase her internal temperature and did increase it from 98.9 to 100.6 degrees Fahrenheit. Dr. Stephens also ran several tests, including a blood panel, to determine what all was wrong with "M&M", but before the blood results came back, "M&M" began to struggle and flop around in the incubator.

24. "M&M" was then removed from the incubator, but collapsed with a loud cry nonetheless. "M&M" then became agonal and died after Ms. Kight chose not to have "M&M" resuscitated.

25. In his response to the Board, Respondent stated that he examined "M&M" before leaving the Clinic and decided to provide no treatment at that time because "M&M" "showed no pain response or any other response, and in fact, appeared to be close to expiring at the time of" that initial examination.

26. Additionally, Respondent told the Board that he had to leave the Clinic due to a prior personal obligation and thought that another veterinarian would examine and treat "M&M" while he was out of the Clinic.

### **Conclusions of Law**

1. Respondent is required to comply with the provisions of the Veterinary Licensing Act, Chapter 801, Texas Occupations Code, and with the Board's Rules.

2. Based on the above paragraphs, Respondent has violated Rule 573.22, PROFESSIONAL STANDARD OF CARE, of the Board's Rules of Professional Conduct, by failing to provide any treatment to "M&M" when "M&M" was in Respondent's care and close to death due to her numerous injuries, by failing to examine Scottie prior to starting the neuter and determine that one of the testicles was cryptorchid, by failing to examine Gizmo and determine that Gizmo was a male instead of a female before starting a spay procedure, and by discharging Inky when it had not recovered from the surgery enough to make it out of the pet carrier upon discharge.

3. Based on the above paragraphs, Respondent has violated Rule 573.24, RESPONSIBILITY OF A VETERINARIAN TO REFER A CASE, of the Board's Rules of

Professional Conduct, by failing to refer "M&M" to another veterinarian who had the time to treat "M&M" on November 27, 2013, instead of having "M&M" wait at the Clinic for treatment for four hours with severe injuries that Respondent thought would likely kill the animal.

4. Based on Findings of Fact 1 through 26 and Conclusions of Law 1 through 3, Respondent has violated Sections 801.402 (6) of the Veterinary Licensing Act, Texas Occupations Code, and is subject to disciplinary action by the Board:

801.402. GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. A person is subject to denial of a license or to disciplinary action under Section 801.401 if the person:...

(6) engages in practice or conduct that violates the board's rules of professional conduct.

5. Based on Conclusions of Law 1 through 4, Respondent is subject to disciplinary action under Section 801.401 of the Veterinary Licensing Act, Texas Occupations Code:

801.401. DISCIPLINARY POWERS OF BOARD. (a) If an applicant or license holder is subject to denial of a license or to disciplinary action under Section 801.402, the Board may: (a)

- (1) refuse to examine an applicant or to issue or renew a license;
- (2) revoke or suspend a license;
- (3) place on probation a license holder or person whose license has been suspended;
- (4) reprimand a license holder; or
- (5) impose an administrative penalty.

.... (d) In addition to other disciplinary actions authorized by this subchapter, the board may require a license holder who violates this chapter to participate in a continuing education program.

NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent receive a FORMAL REPRIMAND.

The Board ORDERS that Respondent pay, within 45 days of the date of this Order, an ADMINISTRATIVE PENALTY of ONE THOUSAND DOLLARS (\$1000.00). If Respondent fails to pay the administrative penalty within 45 days of the date the Board signs this Order, the Board may apply any payment to the Board to renew a license to pay any outstanding

administrative fee owed to the Board.

In addition, the Board ORDERS that Respondent complete THREE (3) hours of continuing education in pediatric surgery and anesthesia, in addition to the seventeen required annually for renewal of Respondent's license to practice veterinary medicine, within one year of the date of this Order. Documentation of the completion of the continuing education penalty shall be received within thirty (30) days after one year of the date of this Order. If Respondent fails to provide documentation of completion within forty-five (45) days of one year of the date of this Order, Respondent's license may be suspended until the continuing education penalty is completed and documentation is received by the Board.

The Board further ORDERS that:

1. Respondent shall abide by the Rules of Professional Conduct, the Texas Veterinary Licensing Act, the laws of the State of Texas, and the laws of the United States.
2. Respondent shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating Respondent's compliance with this Agreed Order.
3. Failure by Respondent to comply with the terms of this Agreed Order or with any other provisions of the Licensing Act or the Board Rules, may result in further disciplinary action.

Respondent, by signing this Agreed Order, acknowledges his understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law set forth herein, and agrees that he will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate disciplinary action by the Board.

Respondent, by signing this Agreed Order, waives his right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that he had the right to be represented by legal counsel in this matter.

**RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.**

The effective date of this Agreed Order shall be the date it is adopted by the Board.

**I, JAMES WILSON, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN**

RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THAT THIS ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

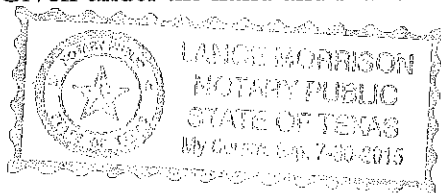
James C. Wilson, DVM  
JAMES WILSON, D.V.M.

11/19/14  
DATE

STATE OF TEXAS §  
COUNTY OF TARRANT §

BEFORE ME, on this day, personally appeared James Wilson, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 19<sup>th</sup> day of NOVEMBER, 2014.



Lance Morrison  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 27 January, 2015.

Bud E. Alldredge, Jr.  
Bud E. Alldredge, Jr., D.V.M., President